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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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XIAOTIAN LIU

v.

KRISTI NOEM, SECRETARY OF THE
DEPARTMENT OF HOMELAND SECURITY;
AND TODD LYONS, ACTING DIRECTOR OF
THE IMMIGRATION AND CUSTOMS
ENFORCEMENT

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* 25-cv-133-SE
* April 9, 2025
* 11:12 a.m.
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TRANSCRIPT OF MOTION FOR TEMPORARY RESTRAINING ORDER
BEFORE THE HONORABLE SAMANTHA D. ELLIOTT

APPEARANCES:

For the Plaintiff:

Sang Yeob Kim, Esq.
Gilles R. Bissonnette
American Civil Liberties Union of NH

Ronald L. Abramson, Esq.
Shaheen & Gordon, PA

For the Defendants:

Raphael Katz, AUSA
U.S. Attorney's Office

Court Reporter:

Susan M. Bateman, RPR, CRR
Official Court Reporter
United States District Court
55 Pleasant Street
Concord, NH 03301
(603) 225-1453

1 P R O C E E D I N G S

2 THE CLERK: Court is in session and has for
3 consideration a motion hearing in Xiaotian Liu versus Kristi
4 Noem, civil case number 25-cv-133-SE.

5 Can I have counsel identify themselves for the
6 record, beginning with counsel for the plaintiff, please.

7 MR. KIM: Good morning, your Honor.

8 Sang Yeob Kim for plaintiff.

9 MR. ABRAMSON: Good morning.

10 Ronald Abramson on behalf of the plaintiff.

11 MR. BISSONNETTE: Good morning, your Honor.

12 Gilles Bissonnette on behalf of the plaintiff.

13 MR. KATZ: Raphael Katz for the government.

14 THE COURT: Good morning everybody.

15 Okay. Thanks for your patience.

16 All right. Before we begin, I just want to clarify
17 for the record -- we had some conversations at the status
18 conference on Monday about whether your motion for a temporary
19 restraining order would actually be treated as a motion for a
20 temporary restraining order or whether we would ultimately
21 treat it as a motion for a preliminary injunction but in an
22 expedited manner.

23 My intention today given the recent developments of
24 late last night and early this morning is to treat it as a
25 motion for a temporary restraining order. I understand that

1 there's notice and that typically a TRO doesn't have notice.
2 Obviously, the government is here and the government has had
3 notice of this suit even prior to filing of the suit and that
4 the parties -- I appreciate your cooperation in working
5 together to make sure that the government knows what's going
6 on and the government's efforts to make sure that the
7 plaintiffs are aware of the status of your ability to respond,
8 but given the fact that the government has indicated its
9 inability to provide a true substantive response both legally
10 and factually to the allegations in the complaint and the
11 allegations in the motion until later, either early or late
12 next week, and the inability of the government to commit to
13 either not detaining or not deporting the plaintiff in this
14 case, you know, the plaintiff has asked me to consider this
15 motion today.

16 As a result, I'm going to consider it as a motion
17 for a temporary restraining order. So I just wanted to
18 clarify that for the record. So I'm not transforming this
19 into a motion for a preliminary injunction at this point which
20 means that we're not really going to be considering this on
21 the robust record that we might otherwise consider it when
22 there's been notice provided.

23 So if you're looking at other cases in which
24 there's been notice on a request for a temporary restraining
25 order, I don't think this case is really going to be

1 comparable. This is more akin to a traditional temporary
2 restraining order case.

3 Does everybody agree with me on that?

4 MR. KIM: Yes, your Honor, for plaintiff.

5 THE COURT: Okay.

6 MR. KATZ: Yes, your Honor.

7 THE COURT: Okay.

8 All right. It's the plaintiff's motion. You can
9 trust I've read everything carefully as much as I could. I
10 mean, there were supplements I received this morning, but I am
11 interested in hearing your argument as you see fit.

12 As you know, I have a tendency to interrupt with
13 some questions, but I do want to hear from you.

14 MR. KIM: Yes, your Honor.

15 Sang Yeob Kim for plaintiff.

16 Your Honor, because of the nature of the temporary
17 restraining order I want to start with the irreparable harm,
18 why there is the need for urgency and why the Court should
19 intervene and provide a very short and temporary relief until
20 the plaintiff can go into the preliminary injunction stage.

21 That's really -- the main harm is the possibility
22 of the immigration detention and deportation, and that's the
23 portion of the harm that plaintiff hoped to achieve through
24 the agreement with the defendants.

25 Regrettably, that did not occur last night, and

1 it's our understanding that defendants cannot promise, cannot
2 assure that no detention or no arrest would happen.

3 So that's the imminent potential of threat and harm
4 to the plaintiff, and that is related to the merits of the
5 case obviously because the case is very unprecedented in a way
6 that it's unclear whether he is currently out of student
7 status or not.

8 The government -- you know, it appears that the
9 defendant's notification of the termination through the SEVIS
10 record, which is the student -- the database, indicates that
11 his student status has been terminated and also as well as the
12 revocation of the visa. What that means is the government has
13 the ability and can detain plaintiff at any time and place him
14 in legal proceedings.

15 And for that -- even though we are not challenging
16 the revocation of his visa itself, instead we are only
17 challenging the termination of his F-1 student status, that
18 portion can serve as a critical and powerful form of defense
19 and relief in legal proceedings.

20 So that's the main irreparable harm that we think
21 that exists at this moment.

22 On top of that, because of the termination of his
23 F-1 student status the school is not allowing plaintiff to
24 engage in any research, and that's critical because he -- the
25 plaintiff is a doctorate student, a second year student, and

1 he needs to engage in research for both financial assistance
2 from the school as well as that's the core component of his
3 doctorate program.

4 So right now the school at least allows him to
5 enroll in classes and that would allow him to maintain full
6 course of study which goes into whether he's complying with
7 the regulation, but that doesn't really -- I don't want to say
8 it's not meaningful, but that does not meet the progress of
9 his Ph.D. program because he has to engage in the research
10 work and that just cannot happen until this Court intervenes
11 in this case through the temporary restraining order.

12 THE COURT: Can I ask you --

13 MR. KIM: Yes.

14 THE COURT: Is it clear how long he can fail to
15 engage in research? You know, I don't have any other
16 information about his financial wherewithal and I don't have
17 any information about how long he can pause his research and
18 still maintain his progress towards his degree.

19 MR. KIM: It is unclear at this moment because --
20 so ordinarily the Ph.D. program allows a student to receive
21 through the teaching assistantship or research assistantship
22 and then hopes the student finish, for example, within five or
23 six years because the school is paying for the research and
24 the student needs to finish it.

25 Now, because of this termination he cannot --

1 because he cannot engage in any research class at this moment,
2 he will likely have to delay one more semester after his Ph.D.
3 program because -- even though we don't know what will happen
4 in this action at this moment, because he's already enrolling
5 for the regular classes, not research class, that will -- I
6 don't know how that will affect -- whether that's -- like, six
7 month of delay or one year of delay, whether that would
8 actually affect even the school, to force a school to
9 terminate his Ph.D. program if he cannot finish within four
10 years. That -- we don't have information yet, but what's
11 clear is that definitely affects progress of his Ph.D.
12 program.

13 THE COURT: And if the Court were to grant the
14 temporary restraining order as requested, will that remedy
15 this situation? I mean, he's already been prevented from
16 participating in research. My understanding is it's only been
17 a few days.

18 MR. KIM: Correct.

19 THE COURT: That's my question is, how long can
20 that go? You know, if I were to grant the temporary
21 restraining order today or tomorrow, is that soon enough to
22 stop that interference? If I were to grant preliminary
23 injunctive relief two weeks from now, is that soon enough to
24 stop that interference?

25 MR. KIM: I don't think -- so I don't have a

1 definite answer. However, the two weeks would be a little bit
2 late because now he is in the process of changing his course
3 from research credit to the regular lecture classes.

4 THE COURT: Okay.

5 MR. KIM: And what we hope to see is -- even though
6 we don't know Dartmouth College's position about this, what we
7 hope to achieve -- for examine, if the Court grants TRO today
8 or tomorrow, we plan to go back -- we plan to reach out to
9 Dartmouth College so that plaintiff can actually return back
10 to the research, the credit, so that the student plaintiff
11 doesn't need to enroll in regular classes but instead doing
12 the research that he has been doing.

13 THE COURT: Okay. Understood.

14 MR. KIM: So two weeks -- to answer, two weeks of
15 the time might be untimely for the purpose of going back to
16 the research, the credit and course.

17 THE COURT: Okay. Thank you.

18 MR. KIM: So based on that, plaintiff believes the
19 irreparable harm prong has been met and satisfied, and I'm
20 going to go into the likelihood of success.

21 THE COURT: Okay.

22 MR. KIM: So we have two claims. One is due
23 process claim on the Constitution. The second claim is APA
24 claim.

25 So let me start with the due process claim. So the

1 core basic principle of due process is notice and a meaningful
2 opportunity to respond. None has been provided in this case.
3 The school did not receive any notice twice. The first time
4 the school found out about the plaintiff's status when the
5 school was inspecting the SEVIS record on its own. It's not
6 that the defendants notified the school about the termination
7 of the status. Even when the school found out about the
8 updated status of the SEVIS record, it was not that defendants
9 provided that notice to the school or even to plaintiff. So
10 there was no notice.

11 And even that explanation showing in the SEVIS
12 record does not provide any sufficient and adequate
13 explanation as to why his student status was terminated. It
14 merely indicates that the initial notation was otherwise
15 failure to maintain status in the middle of the criminal check
16 and/or the visa was revoked, but student has maintained his
17 status and his school has not terminated his status. It's
18 usually the school that officially is the one. DSO is the one
19 who inspects. And if the student does not maintain the
20 status, then DSO is the one who initiates the termination.

21 THE COURT: Maybe you can explain this to me. So
22 your supplement from this morning -- my understanding is that
23 that supplement clarified that it wasn't an issue about
24 maintaining status. That now there's a clarification that
25 it's either that he came up on a criminal records check or

1 that his visa was revoked.

2 Am I understanding that supplement correctly?

3 MR. KIM: Yes, that's the correct summary of the
4 supplement because that's the current updated status record,
5 and it appears that that has been consistent with all other
6 similarly situated students of this updated SEVIS.

7 So putting aside the issue of the failure to
8 maintain status -- so if crime is an issue that forced
9 defendants to terminate student status, then they have to have
10 explanation as to what charges, convictions that he has been
11 accused of.

12 THE COURT: Under the Fifth Amendment?

13 MR. KIM: Correct, your Honor.

14 And principally because plaintiff has not committed
15 any crime. Not even parking ticket. He doesn't even drive.
16 He doesn't even have driver license because he doesn't want to
17 get parking ticket.

18 The only thing that he has done was studying really
19 well, and as his master's program GPA shows, he got 4.0 out of
20 4.0. That's the only thing that he has done, studying since
21 2016, to become a computer scientist, to become a scholar in
22 that field.

23 So if the government defendant has a reason to
24 notify him about the criminal basis, then they have to explain
25 more than just merely criminal check.

1 And if the government -- I understand that the
2 defendant might not be ready to respond, but if the defendants
3 want to rebut that claim that he actually has been accused of
4 a crime and he has conviction, then defendant should have
5 provided that evidence. But I -- as far as I know, I'm not
6 aware of such rebuttal evidence or --

7 THE COURT: I'm going to stop you right there, and
8 I'm going to give the government an opportunity to respond to
9 that.

10 Is the government prepared right now -- and I'm
11 sorry, the way the courtroom is set up I can't see the
12 government's counsel around you.

13 Is the government prepared to respond to the
14 plaintiff's status, status or SEVIS status today?

15 MR. KATZ: No, your Honor.

16 We have -- I've begun this case yesterday, and
17 since then I've conferred repeatedly with ICE counsel and
18 Office of Immigration Litigation counsel, and we are seeking
19 right now to determine all those facts about the status that
20 has been raised, but we do not have them right now.

21 THE COURT: So can you tell me whether -- at this
22 point can you even tell me whether this is intentional or a
23 mistake?

24 MR. KATZ: I cannot. I do not know the answer as
25 to anything regarding the status at this point. I'm still

1 gathering that information right now.

2 And, again, I've been in talks with ICE, they are
3 working hard on getting that, but it's only been two days and
4 they have not gotten that information yet.

5 THE COURT: Okay. So right now what I have in
6 front of me for the record is I have an affidavit from an
7 attorney authenticating a document, a government document
8 which is a printout from a government maintained website, and
9 I want you to correct me if I'm wrong because I'm trying to
10 figure out what I have in front of me. It's a government
11 maintained website, right?

12 MR. KIM: If I may, technically it is the e-mail
13 from Dartmouth College. We copied and pasted it from the
14 SEVIS record.

15 THE COURT: Okay.

16 MR. KIM: What happened was Dartmouth College found
17 out about that notation in the status and copied and pasted IT
18 into the e-mail and notified the plaintiff.

19 So technically we don't have the screenshot of the
20 SEVIS record itself.

21 THE COURT: Okay. Give me one second. I'm sorry.

22 (Pause)

23 Okay. So I have an e-mail from Dartmouth College
24 and Dartmouth College is representing in the e-mail that this
25 is a screenshot of what they can access on the government

1 website.

2 MR. KIM: I apologize, but technically not the
3 screenshot, but they copied and pasted that exact notation as
4 quotation -- as a quote from SEVIS record into the e-mail.

5 So they did not -- for example, they did not take a
6 screenshot of the SEVIS record. What they did was this is
7 what the SEVIS record shows in terms of what happened to you
8 in terms of the status, and then they quoted, copied and
9 pasted the quotation, the quote from the SEVIS record into the
10 e-mail.

11 THE COURT: Okay. But that's the only information
12 thus far that's been available to the plaintiff about his
13 status?

14 MR. KIM: That's correct, your Honor.

15 THE COURT: Okay. Just for clarification sake, is
16 the plaintiff arguing that if he -- I know this is a
17 hypothetical and I know how much attorneys hate hypotheticals,
18 but is the plaintiff arguing that if he knew he had committed
19 a crime or had been accused of committing a crime, that his
20 due process rights would be violated if his status were
21 revoked without the government stating exactly what crime was
22 committed?

23 MR. KIM: So it depends -- so I have two responses,
24 your Honor.

25 Number one response is it's a hypothetical. So

1 depending on the sufficiency of the explanation. So, for
2 example, even if plaintiff admits that he has been accused of
3 the crime, if the government notice merely says you have been
4 accused of the crime, that's not enough. It has to be more
5 than that, a little bit more specific as to which conviction,
6 which crime.

7 Plus, even if the notice prong of the due process
8 requirement is satisfied, there's a second prong from the --
9 based on the case that we cited from the First Circuit, the
10 meaningful opportunity to respond, and that's pretty important
11 because there could be some mistakes that are happening. From
12 the government's perspective, maybe through the database
13 search this person was flagged with some sort of accusation of
14 the crime or conviction, but that may not mean that this
15 person actually is the person who committed the crime or
16 convicted of a crime, which is why the meaningful opportunity
17 to respond is a critical point whether that factual allegation
18 is correct or not, and that did not even exist, and that did
19 not even exist for the school.

20 So here the defendant is provided no notice,
21 provided no meaningful opportunity to respond, and today
22 during this hearing defendants cannot even ascertain and
23 verify whether his status has been terminated or not, but
24 problem is because of the SEVIS record termination notation
25 the school is not allowing -- school cannot because they still

1 have to comply with -- the regulation is not allowing
2 plaintiff to enroll in research class.

3 So the harm is real regardless of whether the
4 government actually made a mistake of putting that notation
5 into the SEVIS record or intentionally included that
6 information into the record, but because of that ambiguity
7 because no one can ascertain what actually happened and the
8 real reasons why that notation was included in the SEVIS
9 record, the harm -- the plaintiff is suffering from the
10 termination notation in the SEVIS record.

11 THE COURT: Do you have any -- I mean, I've
12 obviously looked at your briefing and we've done some of our
13 own research, but we're all on the same tight timeline here.

14 Do you have any case law that I can review that
15 would give me some guidance of other courts that have applied
16 these same Fifth Amendment due process protections in context
17 either identical or at least similar to this?

18 MR. KIM: Unfortunately, no, at least based on
19 our -- the short period of exhaustion of the research.

20 I think that's because this has never really
21 happened. This is unprecedented. And, again, it's usually
22 the school's DSO terminates the status or suggests to
23 terminate the status because, for example, the student was
24 convicted of a crime with a crime of violence or the student
25 is not attending the classes, he's not complying with the

1 regulation, but here it -- even the school has no idea what is
2 happening, and defendants unilaterally terminate or at least
3 at a minimum included that notation into the SEVIS record
4 forcing the school to pretty much pushing him out of the
5 research, the assignments, and treating him like he is
6 currently out of status.

7 So because of this unprecedented situation -- and
8 the plaintiff's counsel have been attending and speaking with
9 so many other attorneys just to verify whether this has ever
10 happened, whether there's any example of precedent that
11 actually happened addressed by other courts. We have found
12 none. And I have personally spoke -- we have spoken with at
13 least fifteen attorneys who have been in this field of the F-1
14 student status, and none of them actually have seen this type
15 of situation.

16 So unfortunately we are not aware of any on point
17 case law other than the Third Circuit case law Jie Fang which
18 at a minimum provides this Court jurisdiction on their APA
19 claim because the defendant's decision to terminate F-1
20 student status is a final action and that constitutes -- that
21 provides this Court restriction under APA to review whether
22 that termination was unlawful or lawful.

23 THE COURT: Okay. We'll get to that one in a
24 second.

25 Okay. Is there anything else that you want to say?

1 I'll give you an opportunity to come back to this.
2 I want to exhaust -- anything you want to say today and
3 anything you want to put on the record, you'll have an
4 opportunity to do that.

5 I want to see if the government has anything else
6 you want to add at this point on this Fifth Amendment due
7 process argument.

8 MR. KATZ: I have -- well, I want to start with
9 responses as to the reason we're here on detention, but if you
10 wanted to talk specifically about the due process piece, I do
11 have something to say regarding to the extent we're talking
12 about the visa, you know, removal of the visa.

13 THE COURT: If you -- I mean, it's okay with me.
14 You can go ahead and talk about -- we did start with the
15 plaintiff's argument about the risk of detention. So if you
16 would like to go ahead and talk about the risk of detention
17 first, that's okay with me. We can jump around. I can
18 follow.

19 MR. KATZ: Thank you, your Honor.

20 So as you know, plaintiff started by explaining why
21 we're here largely is because of the risk of detention and
22 removal and that it couldn't get assurances from the
23 government as to that, and unfortunately the government can't
24 make any representations on ICE enforcement priorities.

25 But because the main concern here is detention, I

1 want to start with that. You know, I want to talk a little
2 bit about the detention and removal process, and, you know,
3 the bottom line is that it's not something plaintiff can ask
4 the Court to do, to enjoin ICE from implanting its enforcement
5 authority, and just to talk a little bit about that.

6 So if ICE would determine that plaintiff was
7 subject to removal, he would be provided with due process in
8 the form of a notice and opportunity to respond. He gets
9 what's called a notice to appear which is --

10 THE COURT: I'm going to be very rude and interrupt
11 you for a second.

12 I will let you put anything you want on the record,
13 but I just want to clarify that the only request -- let's
14 focus this very specifically on the request that's in front of
15 the Court today because the preliminary injunction request
16 here is a request that the Court enjoin the government from
17 terminating the plaintiff's F-1 student status under SEVIS and
18 require the Court to set aside the termination determination.

19 There's actually not a request for the Court to
20 enjoin ICE from detaining or deporting the plaintiff in this
21 case. So you can absolutely say whatever you need to say, but
22 I don't think that that issue that you're trying to brief up
23 orally at this moment is actually in front of me.

24 MR. KATZ: No, and it shouldn't be. I understand
25 that, your Honor. I think that the reason it is in front of

1 you in a way is that the reason we're here today versus -- you
2 know, next week the Office of Immigration Litigation will be
3 coming to the case prepared to argue this whole thing. We're
4 looking to get the full facts that -- we've talked about his
5 status to do that, but the reason I understand that we're here
6 today is largely the emergency is this fear of detention. So
7 I thought --

8 THE COURT: But there's no question that there is a
9 risk of detention in this case, right? I mean, everybody
10 agrees there is a possibility that the plaintiff will be
11 picked up?

12 MR. KATZ: Yeah. I mean, I can talk to that, but
13 yes.

14 THE COURT: But the government agrees, right, that
15 the plaintiff might be picked up given the SEVIS status?

16 MR. KATZ: That ICE has the authority to do so,
17 correct.

18 THE COURT: Right. So I don't think that's in
19 dispute here. I mean -- like I said, I'm going to give you an
20 opportunity to say anything you want, but I just want to make
21 sure that we're not walking down a road about the Court's
22 authority to do something that I'm not attempting to do and
23 the plaintiffs aren't asking me to do.

24 MR. KATZ: Right.

25 What I'm saying, your Honor, is if -- the reason --

1 one of the main reasons that plaintiffs have given today to
2 have the TRO and get the relief they're seeking is to prevent
3 that detention. That's the way I understood it. That's the
4 major irreparable harm that they've argued.

5 And my point on detention and removal is that these
6 are all handled different ways through due process. And I
7 thought it made sense to put that on the record and then I can
8 address the other irreparable harms as well, but that would
9 seem the main irreparable harm that was put forward.

10 THE COURT: It's one of them, but I think -- I just
11 want to make clear that -- you started talking about the
12 Court's authority to enjoin ICE. They're not asking the Court
13 to enjoin ICE. They're talking about -- talking about
14 consequences of something is not the same thing as asking the
15 Court to enjoin that consequence. They're asking the Court to
16 enjoin the government from this SEVIS status. I just want to
17 make sure we're all on the same page.

18 MR. KATZ: And we are, and I understand that, your
19 Honor.

20 THE COURT: Okay.

21 MR. KATZ: I think my point is to the extent there
22 is a focus on irreparable harm, it makes sense to understand
23 that process, how that notice of approval and detention
24 process works so that piece of it is met with due process, and
25 I'll move really quickly through this, but the bottom line is

1 that, you know, you get a notice to appear and you go before
2 an immigration judge, and only then after getting that upon
3 due process and a removal order can that happen, and then that
4 order is administrative appealable to the Board of Immigration
5 Appeals which then is appealable to the First Circuit. So
6 there's a whole grounds for that. And if he's detained, he
7 can file habeas corpus in district court.

8 And, you know, as you stated, it's not before the
9 Court, the decision is not before the Court, but just for the
10 record, the Court lacks jurisdiction to enjoin the issuance of
11 an NTA to do that, but I understand your Honor's point on
12 that.

13 So I just want to make clear for the record that
14 there is a way to deal with this process and these fears, and
15 there has not -- you know, we have not been told that there's
16 any evidence that he's been detained or in the process of
17 being detained from plaintiff or anything like that.

18 And as far as the other piece of irreparable harm,
19 which is his studies -- so my understanding is that he can
20 still -- plaintiff can still go forward with taking classes.
21 If he wanted to, he could take his credits and go to another
22 school outside the country. He could do all of those things
23 and continue it. So I don't see what the irreparable harm is
24 additionally. Particularly if it's only going to be another
25 week or so before that's going to be argued. So to me that's

1 what's really left is that irreparable harm because, you know,
2 any fear of detention is dealt with through a completely
3 different process which comes with due process.

4 THE COURT: So your argument is that the fear of
5 detention is dealt with by the fact that he could then appeal
6 that detention.

7 MR. KATZ: I mean, there is -- right. There's a
8 whole handle to do that. If that's what he's really trying --
9 I guess the point is if that's his main fear and he is trying
10 to get a TRO -- yes, I understand that it's not directly
11 seeking to stop this, but if that's the main fear that he has
12 as opposed to his studies, which I think is not irreparable
13 harm and could be dealt with in a week, then that is not
14 something that can be enjoined by the Court and is something
15 that is dealt through due process in a different way.

16 That's the government's position.

17 THE COURT: I understand.

18 I'm not sure I'm buying the idea that just because
19 there's additional due process afforded after detention that
20 there's no fear of detention. I mean, there are plenty of
21 TROs issued as a result of fear of arrest, and just because
22 you have a right to a trial after arrest doesn't mean that
23 there's no fear of arrest. And you think of all of the TROs
24 that are issued that enjoin the application of potentially
25 unconstitutional laws, and a lot of that is based on the fear

1 of arrest and detention even though there would be a trial
2 eventually.

3 So I understand what you're saying. I think I
4 understand the government's position on that.

5 Again, I don't think that that's exactly what's
6 before me, but I hear you -- I hear you saying that the
7 immediate need for Court action is dampened by the fact that
8 there would be some due process afforded if he were to be
9 detained.

10 Is that essentially -- is that the essence of your
11 argument?

12 MR. KATZ: That's correct. And I haven't heard,
13 you know, anything saying that, hey, I think I'm about to be
14 detained or someone is following me or any sort of argument to
15 that nature yet that he is in imminent danger of that.

16 Again, like I said, I don't have all the facts on
17 his status or anything like that this week, but based on what
18 I've been told from plaintiffs I don't understand that and I
19 understand he has not been yet detained. And if he were to be
20 detained, your Honor, there is this whole process that gives
21 him all these rights if that were to happen.

22 THE COURT: Well, I guess what I'll ask you this
23 then. I mean, there are other students whose SEVIS status has
24 been altered, right? I mean, this has happened before. I
25 mean, I know it's unprecedented in some ways, but there are

1 other students whose SEVIS status has been altered in the past
2 few weeks. Have some of those students been detained? No one
3 knows yet?

4 MR. KIM: If I may, your Honor.

5 So, yes, including some of the high profile cases
6 because their student status had been revoked. I'm sorry.
7 Their visa was revoked and then terminated so they are in
8 detention.

9 Now, I don't have the information whether any
10 student whose status was terminated on or about, like, last
11 Friday has been detained or not. That I don't have the
12 information yet.

13 THE COURT: Okay.

14 MR. KIM: But as far as all students similar whose
15 status has been terminated within this month, last month, yes,
16 there are plenty of examples of students either deported or
17 detained.

18 THE COURT: Okay. I also just want to clarify --
19 we're talking about -- a TRO is always very short. It's a
20 maximum of 14 days. I think in this case we're talking about
21 even shorter because -- the length of the TRO in this case
22 would be determined by the government's ability to respond.
23 You know, originally we were talking about a Monday response
24 from the government. Now I'm hearing that maybe the
25 government needs a little bit more time.

1 You know, if the government had been prepared to
2 respond today, we maybe wouldn't be talking about a TRO.
3 Maybe we would be talking about a fully briefed up preliminary
4 injunction with an opportunity for the government to give me
5 the full factual and legal arguments, but the government is
6 not ready for that and so, you know, I'm put in a little bit
7 of a difficult position here trying to figure out how
8 I'm supposed to -- I'm evaluating this under the standard
9 that's required for a temporary restraining order with only
10 the facts available to me.

11 And so, you know, the government is saying the
12 plaintiff hasn't come forward with any real evidence that the
13 plaintiff is likely to be detained, but the change in
14 status -- the government is not contesting that there's been a
15 change in status, correct?

16 MR. KATZ: We're not contesting that, but I don't
17 have the facts to explain why that change of status happened
18 at this point.

19 THE COURT: Right. Okay.

20 Okay. Anything further on just the detention
21 issue?

22 MR. KIM: Yes, your Honor.

23 THE COURT: Hold on. I'm trying to give the --
24 anything further from the government on the detention issue?

25 And then I will give the plaintiff an opportunity.

1 MR. KATZ: No, your Honor.

2 THE COURT: Okay.

3 MR. KIM: If I may, your Honor.

4 I think that -- what my brother just explained was
5 I think first time that we confirmed his status actually has
6 changed because until now even though there was evidence of
7 the change of his status which forced Dartmouth College to
8 force him out of the research and treated him like out of
9 status, but, again, because we didn't have the screenshot or
10 we didn't have any notice from the defendants, we didn't get
11 the official confirmation. But I think with the government's,
12 my brother's representation -- unless there was
13 misunderstanding, I think it's clear that the student status
14 has been altered and changed, and that's -- that creates this
15 fear and imminent threat.

16 THE COURT: Let me just make sure we weren't
17 misunderstanding.

18 Attorney Katz, were we understanding correctly that
19 you're confirming that his status has changed?

20 MR. KATZ: The information that I have is based on
21 what the plaintiff has said. I don't have any further
22 confirmation from ICE yet. We're working on all of that right
23 now.

24 THE COURT: But do you have confirmation at least
25 that the SEVIS status is as represented in the Dartmouth

1 e-mail?

2 MR. KATZ: I just have what the plaintiff gave me.
3 I'm taking from what the plaintiff has said that it's changed,
4 but I am still determining with ICE everything that has
5 happened, and I have not confirmed -- I don't understand that
6 I've confirmed anything yet.

7 THE COURT: So in your three days -- not your
8 personally, but in your office's three days of conversations
9 with national counsel, you have not been able to confirm
10 whether or not the SEVIS status has actually changed?

11 MR. KATZ: No. I believe it's correct it has
12 changed.

13 THE COURT: Okay.

14 MR. KATZ: I believe that is correct, your Honor,
15 but I'm just waiting for a full report on this.

16 I think in my preliminary I can make the assertion
17 that I understand it has changed. I don't know why it has
18 changed. And if I find out later that it was an error for
19 some reason it happened, that's why I am hesitant to say that
20 I know the whole status because of that, but I do believe that
21 I've seen at least preliminary talks that it has changed.
22 But, again, I don't know what that means yet, and I don't
23 know, you know, the full extent yet of that.

24 THE COURT: And let's -- I just want to afford
25 Attorney Katz the opportunity if -- he's been hamstrung a

1 little bit by coming into this case just today and trying to
2 understand what the status is of everything. So I don't want
3 to trap him into a representation just because he hasn't been
4 able to get information from his client. That's why I didn't
5 want to let you go too far on that.

6 MR. KIM: I understand, your Honor. I didn't mean
7 to put Attorney Katz into a difficult position. It's just
8 because that fact, that information is critical for the
9 purpose of TRO, I thought that it was important to emphasize
10 it on the record.

11 So, again, the reason why detention is a heavy
12 factor in favor of the TRO is there is big difference between
13 student out of status, F-1 status has been terminated properly
14 pursuant to the regulation, and then the defendant, arresting,
15 detaining, placed in proceedings versus the person even with a
16 revocation of visa maintaining F-1 student status and then
17 going, still going after the student who otherwise has the
18 student status. There's a big difference between that because
19 that question can be heavily contested during the detention
20 hearing or otherwise in deportation proceedings.

21 Now, even though we are not contesting that issue,
22 this Court's ability to intervene in this case and the outcome
23 of the TRO significantly changes the dynamics, which is why
24 the possibility of detention -- and we really hoped that we
25 could achieve this without litigating TRO by getting an

1 agreement, just short period of assurance that government
2 would not go after the plaintiff for that period, but even
3 then we could not get that assurance.

4 So, again, in the beginning we hoped that we would
5 give enough time to defendant to brief on that by Friday or
6 Monday and respond, but because of the lack of assurance it
7 forced us to request the Court to have an immediate hearing in
8 this case.

9 So that's the argument, a summary of the argument
10 that we have in terms of the detention. Possibility of
11 detention constitutes the irreparable harm.

12 THE COURT: Understood. I just want to clarify
13 because we've been around and around on this. I'm going to
14 understand for the purposes of this that the government is not
15 contesting that the status has changed in SEVIS at this point.
16 If you want to contest that at some later point, you can, but
17 for the purposes of this hearing the government is not
18 contesting that that status has changed in SEVIS?

19 MR. KATZ: That's correct. For the purposes of
20 this hearing, we're not. If I learn something in the future
21 --

22 THE COURT: Exactly.

23 MR. KATZ: -- like I said or if it was changed by
24 an error and it has changed back or something like that, I
25 don't know that at this time.

1 THE COURT: Understood. Understood.

2 Everybody understands that?

3 MR. KIM: Yes, your Honor.

4 THE COURT: Okay. Was there anything the
5 government wanted to say about the due process argument,
6 likelihood of success on the merits or the due process
7 argument?

8 MR. KATZ: I think the one thing that I left out,
9 besides going through the detention due process piece, was to
10 the extent this is hinged on the revocation of his visa, which
11 I understand was one of the possibilities here or belief
12 that's what it was, this Court lacks jurisdiction to any
13 challenge of the State Department's decision to revoke his
14 visa under 8 USC 1201(i), and that would be part of the
15 removal proceeding. That's where that will be determined. So
16 I think it's just important for the Court.

17 THE COURT: Do you guys have a -- do the attorneys
18 have a response to that particular argument?

19 MR. KIM: Yes, your Honor.

20 Number one, we are not challenging the revocation
21 of visa. We are only challenging the termination of F-1
22 student status. The reason why that's important is the
23 notation says the visa was revoked and then SEVIS record was
24 terminated, but from plaintiff's perspective on the due
25 process principle, the plaintiff needs to know what's the

1 relation between revocation of the visa and termination of F-1
2 student status. Because even though they might interplay a
3 little bit, under the regulation it's very specific when an
4 F-1 student is out of status and when defendants can terminate
5 the status.

6 So even though we are not challenging revocation of
7 visa, that notation of illogical relationship from our
8 perspective between revocation of visa and termination of F-1
9 student status, and there's no explanation as to why.

10 THE COURT: So I just want to rephrase this for
11 myself so you can tell me if I got your argument wrong.

12 So your argument is that there is a due process, a
13 right to notice and an opportunity to be heard, in case the
14 visa wasn't revoked. If it turned out it was revoked, then
15 those protections are over because there's no due process
16 protection. There's no right to a hearing to challenge the
17 revocation itself, but there's a right for notice and an
18 opportunity to be heard about the change in status.

19 MR. KIM: Correct.

20 THE COURT: So if a change in status is a result of
21 being identified in a criminal records check rather than a
22 revocation of a visa, then this issue doesn't come up, right?
23 Then the prohibition in 8 U.S.C. 1201 probably doesn't come
24 up.

25 MR. KIM: Right. But we don't even know that. We

1 don't even know whether the F-1 student status was terminated
2 because of the criminal act issue, which doesn't go into the
3 Court's jurisdiction or issue, whether this is related to the
4 visa revocation, which can go to this Court's jurisdiction
5 issue, but we don't even know that. We don't even have the
6 explanation from that notation from the SEVIS record which one
7 is the basis for the termination of --

8 THE COURT: So if your plaintiff got notification
9 that his visa was revoked before the SEVIS change in status,
10 there would be -- would there be no due process right to the
11 SEVIS revocation because he would already know that -- how
12 does this all work together?

13 MR. KIM: There is. There still is because again
14 the State Department has the power to revoke the visa.

15 THE COURT: Okay.

16 MR. KIM: And Department of Homeland Security, the
17 defendants, have the power to terminate the status.

18 So let's assume for the hypothetical scenario that
19 plaintiff didn't receive revocation of the visa. That does
20 not automatically constitute termination of F-1 student
21 status.

22 So still even if he -- assuming that he did receive
23 such notice from the State Department, for example getting a
24 call from the U.S. Embassy in China or the State Department in
25 D.C., he still is entitled to receive the notice with respect

1 to the termination of the student status as well as a
2 meaningful opportunity to be heard because the basis to
3 terminate revocation of the visa and terminate status, they
4 are very different.

5 Why the State Department --

6 THE COURT: I mean, are they different? I mean, if
7 the visa is terminated, they can terminate status, right?

8 MR. KIM: No.

9 THE COURT: I mean, they can change the status in
10 SEVIS.

11 MR. KIM: No.

12 THE COURT: No, because of this entry and reentry
13 issue?

14 MR. KIM: Correct.

15 THE COURT: Okay.

16 MR. KIM: So even if the visa was revoked, assuming
17 that that's actually true, that doesn't mean that his SEVIS
18 record should have been terminated.

19 THE COURT: Right. Unless he leaves the country,
20 and then --

21 MR. KIM: Yes. Correct. If he leaves the country,
22 he would not be able to come back unless he reapplies for the
23 visa at the embassy overseas and gets a visa, but that's a
24 very different scenario because, again, while he's in the
25 United States the mere revocation of visa does not

1 automatically terminate his student status. There's no
2 regulation. There's no statute allowing such termination of
3 F-1 student status.

4 THE COURT: Okay.

5 MR. KIM: I don't have further with respect to due
6 process argument, but I can go into the APA claim.

7 THE COURT: Okay.

8 Attorney Katz, do you want to be heard on any of
9 the conversation we just had about the due process rights with
10 respect to SEVIS as differentiated from the due process rights
11 related to the revocation of the visa?

12 MR. KATZ: I mean --

13 THE COURT: And, again, it's okay if you don't. I
14 mean, I understand that the government is not prepared to
15 provide substantive responses to these legal and factual
16 arguments.

17 MR. KATZ: Yeah, and I think that's something that
18 the government would want to respond to with the Office of
19 Immigration Litigation that, you know, the nuance that he's
20 talking about there, the differences.

21 I will say the way we initially understood this was
22 that there was an understanding or an assertion by plaintiff
23 that he thought his visa had been revoked and that this was I
24 guess an indirect way to challenge it, and that's why I raised
25 the jurisdiction issue just for the record in terms of the

1 nuance, the differences, and what happens when a visa is
2 revoked versus the SEVIS record status, student status. I
3 reserve that for a later day on the substance if it's to be
4 heard on that.

5 THE COURT: Understood.

6 MR. KATZ: And, yeah, that's all I have on that
7 issue.

8 THE COURT: Okay. I just want to check with the
9 court reporter.

10 Do you need a brief break? You're okay? Okay.

11 Do you guys want to move on to the Administrative
12 Procedure Act?

13 MR. KIM: Yes, your Honor.

14 So independent from due process argument, under APA
15 the government cannot act outside of the legal authority. So
16 the legal authority comes from statute or regulation. And as
17 the Third Circuit in Jie Fang indicated, the authority of the
18 government to terminate F-1 student status is limited by the
19 regulation, and it's very specific in terms of three
20 categories where the defendants can unilaterally terminate the
21 status.

22 None has happened here. At a minimum, that's the
23 plaintiff's allegation, and of course that's something that if
24 the defendants want to rebut and respond, they can do that,
25 but at least for now none of those criteria has happened or

1 otherwise he has maintained his status.

2 Again, the updated SEVIS record indicates --
3 deleted that otherwise failure to maintain student status,
4 deletes that portion. So I'm assuming that defendants are not
5 alleging that plaintiff has failed to maintain his status.

6 Then if that's not the case and if, for example,
7 then -- unless it's a criminal issue, unless it is consistent
8 with a regulation, we just do not know under which legal
9 authority that defendant actually could unilaterally terminate
10 his F-1 student status.

11 And that's the information as of now, and our
12 allegation is that defendants have no legal authority either
13 by the statute or regulation to terminate plaintiff's F-1
14 student status, and, therefore, under APA that's unlawful and
15 that decision to terminate should be set aside.

16 THE COURT: Okay. Thank you.

17 MR. KATZ: Your Honor, I don't have a response at
18 this time. Also, considering it's intertwined with some facts
19 that I would need and that I assume the Office of Immigration
20 Litigation will need when they respond.

21 THE COURT: Okay.

22 So just for clarification, the only facts I have in
23 front of me are the verified facts of the plaintiff that none
24 of the developments necessary to justify the right to
25 terminate under the APA have occurred in this case. I mean,

1 that's the state of the record right now.

2 MR. KATZ: Yeah. I mean, I understand. I don't
3 have an answer to that at this time.

4 THE COURT: Okay.

5 All right. We have talked about possibility of
6 irreparable harm. We talked about likelihood of success on
7 the merits. Obviously, I'm wrapping irreparable harm under
8 the four-factor test in with the need for the TRO unless you
9 want to be heard separately.

10 MR. KIM: No, your Honor. Yes, it's all
11 interrelated. There's a third prong and a fourth prong, the
12 public interest.

13 THE COURT: We're going to get to those. I do want
14 to cover the balance of the relevant hardships because I've
15 heard from you, and I understand that the government -- you
16 know, I'm trying to give you an opportunity but not force you
17 to respond if you're not ready, but I want to make sure we
18 give the government an opportunity to respond to the portions
19 that they're ready to respond to.

20 So I do have your arguments on these. I want to
21 hear from you if you want to make those arguments, but why
22 don't we flip this and I'll just start with the government and
23 let the government tell me if they have anything they want to
24 say on these.

25 Do you have anything that you want to add on the

1 balance of the relevant hardships?

2 MR. KATZ: Your Honor, I don't think too much
3 different than our argument on the irreparable harm, which is
4 that with detention worries there haven't really been anything
5 asserted as to events about to happen or not, and, two, that
6 that's held by a separate due process.

7 And as far as the irreparable harm as to his
8 student status, I don't know that another week would make a
9 difference. And also given the fact that he still can take
10 classes, he still can get his credit, and he can continue his
11 Ph.D., it's not that he's left without a way to finish his
12 Ph.D. program particularly in, you know, in just the immediate
13 future.

14 So I think if you look at the balance of the
15 hardships from exploring this even another week or two, I
16 don't see that the balance tips in the favor to grant the TRO
17 here given the lack of hardship that's been asserted.

18 THE COURT: Well, I mean, I guess I'll put it
19 another way. It's a balance. So what is the government's
20 hardship? What we're talking about here is a TRO that's
21 between now -- the TRO requested is between now and when the
22 government is prepared to respond to the allegations in both
23 the request for preliminary relief -- and my understanding, by
24 the way, in the more recent filing is that there might be a
25 more robust preliminary injunction motion. I wasn't sure --

1 we'll get to that at the end of this hearing. But when the
2 government is ready to respond between now and then, so some
3 period 14 days or less, to a requested TRO that would enjoin
4 the government from terminating the F-1 student status under
5 the SEVIS system and require the government to set aside their
6 termination determination in SEVIS. So what's the hardship
7 that would be suffered by the government if I were to issue
8 that TRO?

9 MR. KATZ: Again, your Honor, without any more
10 facts, I don't know that I can fully answer that other than to
11 kind of go back to just the point as to the extent this is
12 indirectly trying to enjoin detention. Again, not that I have
13 the facts on that. That -- you know, that's not something
14 that's appropriate that I can do.

15 But as far as your question about SEVIS itself, I
16 don't have an answer apart from, you know, the irreparable
17 harm piece of this and the fact that I don't see the balance
18 of hardships -- you know, how the balance equity tips the
19 other way really and what the hardship is for another week of
20 not having a TRO hearing.

21 THE COURT: Well, I mean, he's not getting paid.
22 He's not moving towards his Ph.D. He might be forced to --
23 he's going to be forced to register for classes that don't
24 have this research component that might preclude him from
25 continuing even if I were to ultimately grant the relief.

1 This is not my argument, obviously. I'm reiterating the
2 argument received from the plaintiffs that even if I were to
3 ultimately grant the relief requested at the later hearing, it
4 may be too late to rejoin those research classes which would
5 extend the Ph.D. program an entire semester which is both
6 time-consuming and expensive. So, I mean, I think that's the
7 hardship that's been put in front of me that has nothing to do
8 with a risk of detention or deportation.

9 So I do have something in a basket for the
10 plaintiff, and that's why I was asking, you know, what is in
11 the basket for the government.

12 It's okay. You know, I understand, I think, what
13 your argument is on behalf of the government, which is really
14 that perhaps this is an end run to interfere with the
15 government's ability to detain or deport, but I think given
16 how closely cabined the request is for the temporary
17 restraining order in this case -- you know, I'm not being
18 asked to interfere with the government's ability to detain or
19 deport. I'm being asked this very narrow thing which really
20 is related to his ability to participate in his educational
21 endeavors.

22 MR. KATZ: I understand, your Honor, and I don't
23 have really anything to add on what I know now as to what the
24 specific harm to the government is on the SEVIS apart from how
25 you articulated it before.

1 THE COURT: Okay. Anything the plaintiff wants to
2 add to that particular prong?

3 MR. KIM: Briefly, your Honor, if I may.

4 So because of the defendant's university letter of
5 termination of F-1 student status the plaintiff is the one who
6 is suffering, like, every minute, every second, and we don't
7 have much time whether he can even go back to the research
8 credit because the most recent evidence we submitted was the
9 school -- because school had concern with compliance with its
10 own regulation, school is forcing plaintiff to enroll in
11 non-research classes which would not be meaningful for his
12 Ph.D. program.

13 So by the time of two weeks even if this Court
14 grants, for example, preliminary injunction, even assuming
15 that happens, there is a very good chance that he would not be
16 able to go back to the research credit because of how the
17 school registration system functions.

18 And he's not getting any money. He is sitting in
19 fear in his residence not being able to do anything. The only
20 thing that he has done at least based on our allegation is
21 studying hard. That is it.

22 He has been in the United States since 2016. The
23 only thing that he has done, not even driving, not even doing
24 a lot of social, but he wanted to be a scholar in computer
25 science and he knew that the United States was the most

1 competitive in the country in terms of computer science in the
2 world. So that's the only thing he has done is study very
3 hard, and now because of university letter of termination,
4 he's the one who is suffering.

5 So we hope that the Court issues TRO, and I
6 understand it's not going to be very long because we will
7 quickly move into filing the preliminary injunction memorandum
8 so that we can litigate the legal issues and the others
9 through the PI proceedings, but we hope the Court issues the
10 TRO as soon as possible.

11 THE COURT: Okay. Thank you.

12 MR. KIM: Thank you.

13 THE COURT: There is one final prong. It was a
14 precise closing, but there is one more prong, which is the
15 affect of the Court's rule on the public interest.

16 We'll start again with the government. If you
17 would like to add anything on the public interest here,
18 Attorney Katz, I'm going give you an opportunity to do that.

19 MR. KATZ: I don't think it's much more than I've
20 already stated, but, again, in terms of ICE being able to
21 implant its enforcement authority, that is in the public
22 interest. And to the extent that this is an attempt to
23 implant that somehow, that is in the public authority and
24 otherwise ICE or the State Department to carry out the various
25 tasks that need to be carried out. So that's obviously -- I

1 think that's already been stated in some way for the record,
2 but that is in the public interest.

3 THE COURT: Okay. Yeah, I can assure you I have
4 that in mind. I've been trying to express that I have that in
5 mind throughout.

6 MR. KATZ: And you have, your Honor, and,
7 therefore, I don't want to dwell there too much other than to
8 make that point for the record.

9 THE COURT: Okay. I appreciate that.

10 MR. KIM: If I may briefly, your Honor.

11 So the public interest lies with what Congress has
12 intended really. Because Congress intended to allow
13 non-citizen students to come into the country as long as they
14 comply with the regulations and they study as they intended,
15 and that's precisely what plaintiff has done. So the
16 defendant university letter of termination of his F-1 student
17 status is forcing the school and forcing him to be not doing
18 the things that he should have done consistent with what
19 Congress intended. So the public interest prong should be
20 heavily in favor of plaintiff.

21 THE COURT: Okay. Thank you.

22 Does the government take a position on whether a
23 bond should be required in this case if the Court were
24 inclined to grant a temporary restraining order?

25 MR. KATZ: Yes, your Honor.

1 The government does request an order in accordance
2 with Rule 65.

3 THE COURT: Okay. Does the government have an
4 amount of a bond that it would request?

5 MR. KATZ: Your Honor, we're unaware again of what
6 the actual costs that will be incurred are yet. So we just
7 ask that a reasonable bond be given.

8 THE COURT: It's very typical in these types of
9 cases. You're just requesting one and no specific amount?

10 MR. KATZ: That's correct, your Honor.

11 THE COURT: Okay.

12 Plaintiffs, do you want to be heard on the issue of
13 bond?

14 MR. KIM: We ask the Court to waive the bond in a
15 case like this.

16 THE COURT: Okay. I'm probably going to take a
17 brief recess of about five minutes.

18 Is there anything else that either party would like
19 to say before I do that?

20 MR. KIM: No, your Honor.

21 MR. KATZ: No, your Honor.

22 THE COURT: Okay. I can't promise you that I'm
23 going to give you a ruling when I come back out here.

24 Okay. A brief recess.

25 (RECESS)

1 THE COURT: Okay. Now that you've had the benefit
2 of a few minutes, I know when I was in your position sometimes
3 I thought of a few things I wish I had said, does anybody else
4 want to add anything to the record? It's okay if you don't.
5 Sometimes it's better not to.

6 MR. KIM: No, your Honor.

7 THE COURT: Anything from the government?

8 MR. KATZ: No, your Honor.

9 THE COURT: Okay. Well, ably argued.

10 I'm going to tell you what I'm going to do. I'm
11 not going to issue my official ruling from the bench right
12 now, but I'm going to tell you that I'm going to grant the
13 temporary restraining order.

14 You'll get a brief order that follows mostly the
15 proposed order that you filed. The relief requested will be
16 identical to the relief that you requested in your proposed
17 order, but the reasoning might just be a little bit different
18 because I had to combine some of the supplements that you
19 filed. I'll try to get that out quickly. I have a 2 o'clock
20 so it might be after that, but I'll try to get it out sometime
21 today.

22 Is there any follow-up now? I don't know if you
23 guys are going to communicate and let me know when we're going
24 to schedule the next hearing in this case.

25 MR. KIM: Yes, your Honor. The plaintiff plans to

1 discuss the preliminary injunction, the scheduling, so that
2 the Court does not need to set the schedule so that the
3 parties can propose the scheduling.

4 THE COURT: Okay. I have some potentially
5 inconvenient news for you, but we only have 14 days so that
6 gets us to the 23rd, which is fine, but I am out and
7 unavailable the final week in April, which probably doesn't
8 come as a surprise to many of you, so it needs to be before
9 then with time for me probably to issue an order.

10 So to the extent that the government wants the full
11 14 days, let's try to give it less than the full 14 days so
12 that I can have an opportunity to issue a robust order and
13 really give this the time and thought that's necessary for
14 such serious issues.

15 MR. KIM: Yes, your Honor. Plaintiff will confer
16 with the defendant's counsel.

17 THE COURT: Okay. Anything else?

18 Oh, and I was willing on such short notice this
19 morning to accommodate counsel from I believe it was
20 Washington D.C. via Zoom, but typically I require parties to
21 be present in court for oral argument. So we should plan on
22 people being here in person if they're planning on
23 participating in the hearing.

24 MR. KATZ: Understood, your Honor.

25 THE COURT: Okay. If there are extenuating

1 circumstances, obviously, please bring them to my attention.
2 I do try to be -- you know, I try to be accommodating to the
3 extent that I can, but I do find it's a better conversation
4 and more meaningful if we can have everybody in the same room.

5 MR. KATZ: Understood, your Honor. That request
6 was just in the hope of having all the lawyers here today.

7 THE COURT: Yeah, which is why I granted it. Yes.
8 Absolutely.

9 MR. KATZ: If it's next week, with the
10 understanding that they would have to be here in person.

11 THE COURT: Okay. All right.

12 Nothing further?

13 Okay. Court's adjourned.

14 (Conclusion of hearing at 12:30 p.m.)
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C E R T I F I C A T E

I, Susan M. Bateman, do hereby certify that the foregoing transcript is a true and accurate transcription of the within proceedings to the best of my knowledge, skill, ability and belief.

Submitted: 4-23-25 /s/ Susan M. Bateman
SUSAN M. BATEMAN, RPR, CRR